

## Chapter 32.—MARINE SANCTUARIES [NEW]

Sec.

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- (a) Secretary of Commerce; consultation; proposed designations.
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## § 1431. Definition.

The term "Secretary", when used in this chapter, means Secretary of Commerce. (Pub. L. 92-532, title III, § 301, Oct. 23, 1972, 86 Stat. 1061.)

## CODIFICATION

Section 301 of Pub. L. 92-532 contained in the original the introductory phrase: "Notwithstanding the provisions of subsection (h) of section 3 of this Act" which has been omitted from the text of this section. Such section 3 of Pub. L. 92-532 is classified to section 1402 of Title 33, Navigation and Navigable Waters. See Additional Definitions note below.

## ADDITIONAL DEFINITIONS

Section 3 of Pub. L. 92-532, which is classified to section 1402 of Title 33, Navigation and Navigable Waters, defines for purposes of this chapter the terms "Administrator", "Ocean waters", "Material", "United States", "Person", "Dumping", "District Court of the United States", "Dredged material", "High-level radioactive waste", and "Transport" or "Transportation". The definition of the term "Secretary" in subsec. (h) thereof as meaning the Secretary of the Army is superseded for purposes of this chapter by this section defining the term "Secretary" as meaning the Secretary of Commerce. See Codification note above.

## CONGRESSIONAL FINDINGS, POLICY, AND DECLARATION OF PURPOSE

For statement of Congressional findings, policy, and declaration of purpose governing this chapter as well as chapter 27 of Title 33, Navigation and Navigable Waters, see section 1401 of Title 33.

## INTERNATIONAL COOPERATION

For direction that the Secretary of State seek effective international action and cooperation through the development of appropriate international rules and regulations in support of the policy of this chapter as well as that of chapter 27 of Title 33, Navigation and Navigable Waters, see section 1419 of Title 33.

## PREVENTION, CONTROL AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of Title 42, The Public Health and Welfare, provides for the prevention, control, and abatement of environmental pollution at federal facilities.

## § 1432. Designation of sanctuaries.

(a) Secretary of Commerce; consultation; proposed designations.

The Secretary, after consultation with the Secretaries of State, Defense, the Interior, and Transportation, the Administrator, and the heads of other interested Federal agencies, and with the approval of the President, may designate as marine sanctuaries

those areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf (15 U.S.T. 74; TIAS 5578), of other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values. The consultation shall include an opportunity to review and comment on a specific proposed designation.

(h) Waters lying within the territorial limits of State or superjacent to subsoil and seabed within seaward boundary of coastal State.

Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any State or superjacent to the subsoil and seabed within the seaward boundary of a coastal State, as that boundary is defined in section 1301 of Title 43, the Secretary shall consult with, and give due consideration to the views of, the responsible officials of the State involved. As to such waters, a designation under this section shall become effective sixty days after it is published, unless the Governor of any State involved shall, before the expiration of the sixty-day period, certify to the Secretary that the designation, or a specified portion thereof, is unacceptable to his State, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the Governor withdraws his certification of unacceptability.

(c) Sanctuaries which include areas of ocean waters outside territorial waters of United States.

When a marine sanctuary is designated, pursuant to this section, which includes an area of ocean waters outside the territorial jurisdiction of the United States, the Secretary of State shall take such actions as may be appropriate to enter into negotiations with other Governments for the purpose of arriving at necessary agreements with those Governments, in order to protect such sanctuary and to promote the purposes for which it was established.

(d) Annual report to Congress.

The Secretary shall submit an annual report to the Congress, on or before November 1 of each year, setting forth a comprehensive review of his actions during the previous fiscal year undertaken pursuant to the authority of this section, together with appropriate recommendation for legislation considered necessary for the designation and protection of marine sanctuaries.

(e) Hearings in coastal areas most directly affected.

Before a marine sanctuary is designated under this section, the Secretary shall hold public hearings in the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. Such hearings shall be held no earlier than thirty days after the publication of a public notice thereof.

(f) Regulations controlling activities permitted within sanctuaries.

After a marine sanctuary has been designated under this section, the Secretary, after consultation

with other interested Federal agencies, shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this chapter and can be carried out within the regulations promulgated under this section.

(g) Accordance of regulations with treaties, conventions, and other agreements.

The regulations issued pursuant to subsection (f) of this section shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory. Unless the application of the regulations is in accordance with such principles or is otherwise authorized by an agreement between the United States and the foreign State of which the affected person is a citizen or, in the case of the crew of a foreign vessel, between the United States and flag State of the vessel, no regulation applicable to ocean waters outside the territorial jurisdiction of the United States shall be applied to a person not a citizen of the United States. (Pub. L. 92-532, title III, § 302, Oct. 23, 1972, 86 Stat. 1061.)

#### § 1433. Penalties.

(a) Any person subject to the jurisdiction of the United States who violates any regulation issued pursuant to this chapter shall be liable to a civil penalty of not more than \$50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

(b) No penalty shall be assessed under this section until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

(c) A vessel used in the violation of a regulation issued pursuant to this chapter shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

(d) The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued pursuant to this chapter, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary. (Pub. L. 92-532, title III, § 303, Oct. 23, 1972, 86 Stat. 1062.)

#### § 1434. Authorization of appropriations.

There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next two fiscal years thereafter such sums as may be necessary to carry out the provisions of this chapter, including sums for the costs of acquisition, development, and operation of marine sanctuaries designated under this chapter, but the sums appropriated for any such fiscal year shall not exceed

\$10,000,000. (Pub. L. 92-532, title III, § 304, Oct. 23, 1972, 86 Stat. 1063.)

#### REFERENCES IN TEXT

The fiscal year in which this Act is enacted, referred to in text, is the fiscal year in which Pub. L. 92-532 is enacted. Pub. L. 92-532 was approved on Oct. 23, 1972.

### Chapter 33.—COASTAL ZONE MANAGEMENT [NEW]

Sec.

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#### § 1451. Congressional findings.

The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse